

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 v.) CRIMINAL NO. 04-30032-MAP
)
FRANCIS G. KEOUGH, III,)
 Defendant.)

**UNITED STATES' MOTION TO VACATE
FINAL ORDER OF FORFEITURE AND AMEND MONEY JUDGMENT**

The United States, by and through its attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts, hereby moves that this Court vacate the Final Order of Forfeiture entered in this case on March 27, 2007 (Docket No. 177), and order the United States Marshals Service (the "USMS") to remit \$88,105.44 to the United States District Court Clerk's Office. A proposed Order Vacating Final Order of Forfeiture is submitted herewith. The United States further moves that this Court amend the Money Judgment entered on March 27, 2007 (Docket No. 176), increasing the in personam money judgment against defendant Francis G. Keough, III (the "Defendant") from \$56,984.56 in United States currency to \$145,000.00 in United States currency. In support thereof, the United States sets forth the following:

1. On January 5, 2007, Francis G. Keough, III (the "Defendant") pled guilty pursuant to a written plea agreement to, among other things, mail fraud in violation of 18 U.S.C. § 1341.

2. In the plea agreement, the Defendant and the U.S. Attorney's Office agreed that the Defendant would pay restitution

in the amount of \$145,000, and that the Defendant also would forfeit to the United States a sum of \$145,000.00 in United States currency, representing the amount of proceeds from his violations.

3. On March 21, 2007, the United States received a check in the amount of \$88,105.44 (the "Currency") from the Defendant. Upon motion of the United States, the Court endorsed a Final Order of Forfeiture, forfeiting the Currency to the United States. See Docket No. 177. The Court also endorsed a Money Judgment against the Defendant in the amount of \$56,984.56 in United States currency, which amount was equal to the Defendant's outstanding forfeiture obligation. See Docket No. 176.

4. The United States submits that the Defendant's restitution obligation to the victims in this case should take precedence over his forfeiture obligation to the government.

5. Accordingly, the United States requests that this Court vacate the Final Order of Forfeiture as to the Currency, and order the USMS to remit the Currency to the United States District Court Clerk's Office, to be applied to the Defendant's restitution obligation. The United States also requests that this Court issue an Amended Money Judgment, in the amount of \$145,000.00 in United States currency, which would accurately reflect the balance of the Defendant's forfeiture obligation

after payment of the Currency to the Clerk's Office.¹

WHEREFORE, the United States respectfully requests:

(1) that this Court enter an Order vacating the Final Order of Forfeiture and requiring the USMS to remit the Currency to the United States District Court Clerk's Office in the form submitted herewith; and

(2) that this Court enter an Amended Money Judgment in the form submitted herewith.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney,

By: /s/ Kristina E. Barclay
STEVEN BRESLOW
KRISTINA E. BARCLAY
Assistant U.S. Attorneys
United States Courthouse
Suite 9200
1 Courthouse Way
Boston, MA 02210
(617) 748-3100

Date: August 7, 2007

¹ The proposed Amended Money Judgment submitted herewith also seeks to correct any errors noted by the Defendant in his Motion and Opposition to the United States' Motion for Preliminary Order of Forfeiture (Docket No. 204).

CERTIFICATION PURSUANT TO LOCAL RULES 7.1 AND 112.1

I hereby certify that, on August 7, 2007, I emailed Daniel Kelly, Esq., counsel for the Defendant, to confer regarding this motion, as required by Local Rules 7.1 and 112.1, but Attorney Kelly did not respond to my email.

/s/ Kristina E. Barclay

Kristina E. Barclay

Assistant U.S. Attorney

Dated: August 9, 2007

CERTIFICATE OF SERVICE

I, Kristina E. Barclay, Assistant U.S. Attorney, hereby certify that the foregoing Motion, as well as the proposed orders referenced herein, were filed through the Electronic Court Filing system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

/s/Kristina E. Barclay

KRISTINA E. BARCLAY

Assistant U.S. Attorney

Date: August 9, 2007